

**REMARKS**

Claims 1-5, 21, 25, 34-35, 38-41, 44-45, 48-51, 54, 56 and 59-67 are pending in this application. Claim 61 is cancelled without prejudice or disclaimer and claims 1, 21, 25, and 59-60 are amended, herein. Pursuant to 37 CFR §1.21, changes to the amended claims are shown in the Appendix attached hereto, with deletions indicated by brackets and additions by underlining.

Claims 1, 21, 25, 59-60, and 62-67 are independent.

Claims 1-5, 21, 25, 34-35, 38-41, 44-45, 48-51, 54, 56 and 59-67 stand provisionally rejected under the judicially created doctrine of double patenting over claims 1, 29, 34, and 36-97 of co-pending Application Serial Number 09/250,675. The rejection is respectfully traversed. ✕

It is respectfully submitted that the claims currently pending in the '675 application are clearly distinguishable from the present claims. More particularly, each of the independent claims of the present application requires directing the payment of a plurality of bills on behalf of a plurality of consumers by a single consolidated payment. By contrast, each of the claims of the '675 application require directing that payment be made either using a first form of payment or a second form of payment. Hence, the claims of the present application and those of the '675 application are clearly distinguishable and are directed to different inventions.

Accordingly, it is respectfully requested that the double patenting rejection relating to the '675 application be reconsidered and withdrawn. ✓

Claims 1-5, 21, 25, 34-35, 38-41, 44-45, 48-51, 54, 56 and 59-67 stand subject to a restriction requirement under 35 USC §121, as comprising four distinct inventions. Group II (claims 21, 25, 38-41, 44-45, 48-51, 54 and 56) is provisionally elected with traverse. It is respectfully submitted that the restriction requirement with respect to the claims in Group I (claims 1-5, 34-35, and 59-61) is improper and that these claims should be included along with those of Group II for the examination of the present application on the merits.

The Examiner asserts that the inventions of Group I and Group II are related as process and apparatus for its practice, and that the two inventions are distinct because the process as claimed can be practiced by a materially different means. Specifically the Examiner asserts that the method of Group I, as claimed in the independent claims, could be practiced without the use of a computer and could be performed by an account representative, a telephone network and a telephone. ✓

It is respectfully submitted that the Examiner has not met the burden under MPEP §806.05(e) of providing a reasonable example that recites material differences. The Examiner acknowledges that both the method and apparatus claims are classified in the same class and subclass, so that Examiner is relying totally on the argument that the method can be performed essentially by hand without a computer. However, each of independent claims 1, 59 and 60 include "processing" and "generating" steps which clearly indicate that the claimed method is being carried out by a processor or computer. Further, considering the enormous volume of transactions likely to be handled in an actual system based on the claimed method, it is respectfully

submitted that the Examiner's example of the method being performed by an account representative, a telephone network and a telephone, is not reasonable.

Claims 1-5, 21, 25, 34-35, 38-41, 44-45, 48-51, 54, 56 and 59-67 also stand subject to a requirement for election of species under 35 USC §121.

Specifically, the Examiner identifies five (5) species with respect to the manner in which the plurality of deposit accounts associated with the plurality of consumers are to be debited.

Claims 1, 21, 25, 59 and 60 are each amended herein to require that a debit directive be generated to debit each of the associated amounts from each of a plurality of deposit accounts associated with the plurality of consumers by one of a draft, a charge to a credit card and an ACH transfer (emphasis added). Accordingly, the Applicants provisionally elect Species 1 (identified by the Examiner as comprising payment means which are capable of making a payment by all three methods - ACH, draft and credit card) for examination of the application on the merits. As amended, all of the claims in Group I and Group II read on the elected species. \*

In view of the foregoing, it is respectfully submitted that the application with claim Groups I and II is in condition for allowance and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed local telephone number, in order to expedite resolution of any remaining issues and further to expedite passage of the application to issue, if any further comments, questions or suggestions arise in connection with the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 12-0427 and please credit any excess fees to such deposit account.

Respectfully submitted,  
Lalos & Keegan

A handwritten signature in black ink, appearing to read "Phillip G. Avruch", written in a cursive style.

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APPENDIX TO RESPONSE TO OFFICIAL ACTION DATED  
FEBRUARY 27, 2001

AMENDMENTS TO CLAIMS

(DELETIONS IN BRACKETS AND ADDITIONS UNDERLINED)

1. (Thrice Amended) A method of directing payment of bills, comprising the steps of:

receiving, via a network, a plurality of instructions, each having an associated amount, to pay a plurality of bills of a merchant on behalf of a plurality of consumers;

processing the received plurality of instructions to generate a debit directive to debit each of the associated amounts from each of a plurality of deposit accounts associated with the plurality of consumers by one of a draft, a charge to a credit card and an ACH transfer; and

processing the received plurality of instructions to generate a directive to pay the plurality of bills on behalf of the plurality of consumers by a single consolidated payment.

21. (Thrice Amended) An article of manufacture for directing payment of bills, comprising:

a computer readable medium; and

computer programming stored on the computer readable medium;

wherein the stored computer programming is configured to be readable from the computer readable medium by a computer to thereby cause the computer to operate so as to:

receive, via a network, a plurality of instructions, each having an associated amount, to pay a plurality of bills of a merchant on behalf of a plurality of consumers;

process the received plurality of instructions to generate a debit directive to debit each of the associated amounts from each of a plurality of deposit accounts associated with the plurality of consumers by one of a draft, a charge to a credit card and an ACH transfer; and

process the received plurality of instructions to generate a directive to pay the plurality of bills on behalf of the plurality of consumers by a single consolidated payment.

25. (Thrice Amended) A system for directing payment of bills, comprising:

a first processor configured to receive, via a network, a plurality of instructions, each having an associated payment amount, to pay a plurality of bills of a merchant on behalf of a plurality of consumers; and

a second processor configured to process the received plurality of instructions to generate (i) a debit directive to debit each of the associated amounts from each of a plurality of deposit accounts associated with the plurality of consumers by one of a draft, a charge to a credit card and an ACH transfer, and (ii) a directive to pay the plurality of bills on behalf of the plurality of consumers by a single consolidated payment.

59. (Twice Amended) A method of directing payment of [paying] bills, comprising the steps of:

receiving, via a network, a plurality of instructions, each instruction having an associated amount, to pay a

plurality of bills of a merchant on behalf of a plurality of consumers;

processing the received plurality of instructions to generate a debit directive to debit each of the associated amounts from each of a plurality of deposit accounts associated with each of the plurality of consumers by one of a draft, [and] a charge to a credit card and an ACH transfer; and

processing the received plurality of instructions to generate a directive to pay the plurality of bills on behalf of the plurality of consumers by a single consolidated payment.

60. (Thrice Amended) A method of directing payment of bills, comprising the steps of:

receiving a plurality of instructions to pay a plurality of bills of a merchant on behalf of a plurality of consumers;

processing the received plurality of instructions to generate a directive to pay the plurality of bills on behalf of the plurality of consumers by a single consolidated payment; and

processing the received plurality of instructions to generate a directive to debit each of a plurality of deposit accounts associated with each of the plurality of consumers by one of a draft, [and] a charge to a credit card and an ACH transfer.